

ZELLE HOFMANN VOELBEL MASON & GETTE

A LIMITED LIABILITY
PARTNERSHIP

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Insurance Coverage

Attorneys at Zelle, Hofmann, Voelbel, Mason & Gette LLP have handled insurance cases throughout the United States and abroad. Zelle Hofmann attorneys have continuously been at the forefront of cutting edge insurance coverage litigation and have been involved in the insurance aspects of numerous catastrophes. The following is a representative listing.

- 9/11 World Trade Center Terrorist Attack
- Hurricanes Katrina, Rita, Andrew, and Iniki
- Angus Chemical Plant Explosion - Sterlington, Louisiana
- Commodore Hotel Fire and Explosion - St. Paul, Minnesota
- El Paso Natural Gas Dam Collapse - Phoenix, Arizona
- General Electric Fire - Mexico
- Hilton Hotel Fire - Las Vegas, Nevada
- Liberian Civil War - Liberia, West Africa
- Loma Prieta Earthquake - San Francisco, California
- Lone Star Steel Toxic Cloud - Morris County, Texas
- MGM Grand Hotel Fire - Las Vegas, Nevada
- Mobil Synfuels Manufacturing Plant - Australia
- Montana Rail-Link Derailment and Explosion - Helena, Montana
- Northridge Earthquake - Los Angeles, California
- Olympic Pipeline Spill/Explosion - Bellingham, Washington
- Phelps Dodge Airplane Crash - Chino, New Mexico
- Productos de Maiz Warehouse Fire - Mexico
- Reno Dust Claims Class Action - Reno, Nevada
- Subaru of New England Automobile Toxic Damage - Boston, Massachusetts
- TU Electric Stack Collapse - Monticello, Texas
- University of Colorado Power Plant Explosion - Boulder, Colorado
- Warner Lambert Manufacturing Plant Explosion - Long Island City, New Jersey

Environmental Coverage

Boston | Dallas | Minneapolis | San Francisco | Washington DC | China*

* In association with ZY & Partners

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• Lawrence Zelle

Insurance Coverage

Zelle Hofmann attorneys have been at the forefront of environmental coverage disputes from the inception of CERCLA in 1980. The firm has handled hundreds of environmental coverage lawsuits in nearly every state including claims under environmental impairment liability policies as well as those under primary and excess policies. Zelle Hofmann has tried numerous cases to judgment and has served for years as national and regional environmental coverage counsel for several major companies.

Zelle Hofmann has considerable experience with environmental coverage disputes involving municipalities and has litigated many such claims under municipal liability insurance policies. Also, trade association "master policy programs," such as those utilized by the retail dry-cleaning industry, have been frequent subjects of disputes and litigation handled by the firm. In addition, Zelle Hofmann attorneys have handled numerous toxic tort bodily injury coverage cases arising out of manufacturing plant air emissions, pesticides, chemicals, groundwater contamination, tobacco products, and lead.

Property Coverage

Zelle Hofmann represents some of the largest commercial property insurers in the world. Its experience encompasses the full range of property coverage, appraisal, and adjustment disputes, including all types of complex business interruption and extra expense claims. These disputes include losses from fires, explosions, structural failures, equipment failures, contamination, boiler and machinery accidents, electrical events, and failure of fire protection systems. The risks involved have included airports, foundries, steel mills, manufacturing plants, mining facilities, lumber mills and yards, electrical and nuclear power plants, automobile distributors, marine terminals and docks, office buildings, warehouses, retail stores, apartment buildings, hotels, livestock and agricultural buildings, gambling casinos, pipelines, construction projects, and innumerable other structures. Zelle Hofmann attorneys have counseled property insurers in the drafting of policy language, including environmental exposures and Y2K issues.

Mold Claims

Zelle Hofmann has assisted some of the nation's largest carriers with developing coverage positions, claim handling guidelines, and expert resource databases for mold claims. Zelle Hofmann has provided counseling, coverage advice and representation in litigation for mold claims arising under commercial property, commercial liability, and homeowner insurance policies.

The following is representative of Zelle Hofmann's experience with mold claims:

Insurance Coverage

- Commercial Building Losses - Property damage, business interruption, and lost income claims arising from mold found at professional buildings (dentists, surgeons, attorneys, etc), light industrial facilities, and high density office space.
- Apartment/Condominium Losses - Property damage and lost rent claims arising from mold in new construction and renovated buildings.
- School District Losses - Property damage claims submitted by school districts involving poor maintenance, poor repair, and improper HVAC procedures.
- Homeowner Losses - Homeowner claims for property damage and bodily injury allegedly arising from the existence of mold.
- Contractor Defense - Defense of contractors and subcontractors from bodily injury and property damage claims allegedly arising from mold caused by poor construction and/or repairs.

Products Liability and Asbestos

Zelle Hofmann attorneys have handled a broad spectrum of product liability coverage actions, such as defective PVC plumbing pipe, cement railroad ties, and oil pipeline claims. The firm has managed bodily injury and asbestos-in-building coverage disputes under primary and excess property and liability policies as well as reinsurance contracts. Zelle Hofmann attorneys have tried and arbitrated numerous cases, conducted ADR under the Wellington Agreement, and have negotiated various settlements from interim agreements to buyouts. Issues have included trigger, scope, allocation, the number and application of deductibles, appropriate exhaustion, "other insurance" issues, specific product exclusions, late notice, failure to cooperate, misrepresentation, expected or intended, defense obligations, obligations of a captive, effect of self-insured retentions, quota share arrangements, and many others.

Bad Faith and Extra-Contractual

One of Zelle Hofmann's core insurance practices is defending property and casualty and life and health insurers against claims alleging "bad faith," the violation of unfair claims and business practices statutes, other extra-contractual claims and punitive damages. The firm also represents clients in responding to complaints brought by insureds to state insurance regulators. Zelle Hofmann attorneys have sat on the national "bad faith" panels of several insurers for years. The firm tracks and analyzes "bad faith" and punitive damages judgments in all of the 50 states and U.S. territories and devotes a substantial amount of time counseling and training our clients' claims professionals in extra-contractual claim avoidance techniques. Zelle Hofmann has also amassed a network

Insurance Coverage

of experts and consultants in this area to assist in defending its clients against these high exposure claims.

Special Investigative Units

Zelle Hofmann works closely with its clients' Special Investigative Units in identifying and defending against fraudulent claims. The firm's experience in this area assists its clients in complying with various fair claims handling statutes while at the same time, protecting their shareholders' interests in not paying fraudulent claims.

Construction

Zelle Hofmann attorneys are experienced in both construction defect and construction site injury coverage disputes. They are well versed in all of the many issues related to construction defect and injury coverage litigation arising out of CGL and E&O policies. They have been involved with the evolvement of policy language regarding the additional insured endorsements as well as the business risk exclusions. Zelle Hofmann has handled numerous allocation disputes among insurers in progressive damage actions. Zelle Hofmann attorneys are also experienced in surety matters, having advised our clients regarding their rights and obligations on construction projects. Zelle Hofmann has defended cases against its clients' insureds in construction defect matters involving all aspects of construction including condominium developments, commercial office buildings and industrial space, and residential housing.

Employment Practices

Zelle Hofmann has handled numerous employment practices coverage disputes arising out of allegations of wrongful termination, harassment, and discrimination. Zelle Hofmann attorneys have extensive experience with these issues under standard liability policies and with employment practices liability coverages.

Directors & Officers and Errors & Omissions

Zelle Hofmann handles the full spectrum of D&O and E&O coverage disputes and frequently acts as monitoring counsel. Zelle Hofmann attorneys have handled claims ranging from attorney, accounting, medical, and other professionals' malpractice issues to securities broker and dealer misconduct allegations and class actions alleging marketing misconduct by life insurers in the sale of life policies and variable annuities. The firm also defends its clients' insured accountants, attorneys, broker dealers, financial planners, insurance agents, investment advisors, and other professionals. Zelle Hofmann has also handled a number of class actions in these areas.

Insurance Coverage

Liability Defense

Zelle Hofmann's liability defense practice is as varied as our clients' product lines. The firm has the experience and capacity to handle the more sophisticated and complex liability matters facing our clients' insureds. Zelle Hofmann attorneys have experience in the following liability areas:

- Cemetery and mortuary liability
- Class actions
- Construction defect and construction site injury
- Equipment and machinery
- Elder care
- Inland marine
- Intellectual property
- Legal malpractice
- Medical devices
- Medical malpractice
- Motor vehicle
- Pharmaceuticals
- Premises liability
- Products liability
- Securities
- Technology
- Workplace exposure
- Wrongful termination

Intellectual Property

Zelle Hofmann has been involved in many intellectual property coverage disputes. Zelle Hofmann attorneys have litigated these issues in a majority of states and federal forums. Representing its insurance company clients, the firm has tried several advertising injury coverage actions arising out of trademark and patent infringement as well as other intellectual property disputes in the computer software and other high tech industries.

Insurance Coverage

The firm has amassed a working database of decisions, comments, and experts in the field.

Technology and E-Commerce

Zelle Hofmann's technology and E-commerce practice area is a function of its clients offering new products to the emerging technology industry. This line of business is creating challenging coverage and liability issues. Zelle Hofmann is committed to remaining at the forefront in counseling its clients and defending their insureds in this rapidly changing world of technology. The firm is monitoring the development of law related to this industry and is accumulating a database of issues and decisions, consultants, and experts similar to what it has amassed in the construction defect, property, environmental, intellectual property, and "bad faith" areas.

Appellate Advocacy

Zelle Hofmann attorneys have successfully litigated scores of appeals resulting in many important appellate decisions on fundamental issues of insurance law. These include the following:

- Applicability of suit limitation provisions in property policies.
- Whether the costs incurred for asbestos abatement/removal are insurable under a property policy.
- Whether an EPA letter constitutes a suit.
- Whether the sudden and accidental pollution exclusion bars claims for gradual pollution.
- Whether the owned property exclusion bars coverage for pollution.
- Whether governmental agency response costs are damages.
- Whether environmental claims are covered under personal injury coverage.
- Whether patent, copyright, and trademark claims are covered under advertising injury coverage.
- Whether late notice bars coverage.
- Whether voluntary payments are covered.
- Whether pre-tender defense costs are covered.
- Whether a transaction constitutes a merger or an acquisition in the D&O context.

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- Whether third parties may recover for "bad faith" under med pay provisions.
- The rights and responsibilities of outside consultants representing property insurance claimants.
- Defense and indemnity allocation issues between insurers.